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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,328	12/03/2003	John Kirchgeorg	05471.00016	5963
23294 7590 11/05/2007 JONES, TULLAR & COOPER, P.C. P.O. BOX 2266 EADS STATION ARLINGTON, VA 22202			EXAMINER LAYNO, CARL HERNANDZ	
			ART UNIT 3766	PAPER NUMBER
			MAIL DATE 11/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

1. Acknowledgment is made of applicant's amendment, which was received by the Office on June 4, 2007.

2. Claims 1-11, 15-18, 20, 21, and 30 are canceled. Claims 12-14, 19, 22-29, and 31-39 are active.

#### ***Oath/Declaration***

3. The reissue oath/declaration filed 12/3/03 failed to properly identify at least one 35 U.S.C 251 error. It is not sufficient for an oath/declaration to merely state "...Claim 1 of the original patent is unnecessarily narrow by including a defibrillation system. The present invention is not limited to the use of such a defibrillation system. New claim 11 does not include a defibrillation system.". Patentees seek to obtain claims having a scope broader than the scope of the claims in the issued patent. Rather, the reference to the specific claim(s) and the specific claim language wherein lies the error. (MPEP 1414 II.(C)). The differences between the newly added claims 12-14, 19, 22-29, and 31-39 and the cancelled original claims 1-10 must be pointed out (MPEP 1414). Currently, claim 11 was canceled. Where and what is the correction for the errors?

4. A supplemental oath/declaration under 37 CFR 1.175(b)(1) is needed to cover errors corrected by amendment filed 6/4/07 (add or delete limitations in claims and add or delete claims after filing the Declarations on 1/18/02).

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5. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 12-14, 19, 22-29, and 31-39 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

“Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant.”

See MPEP § 1414.01.

6. To cure this defect, applicant should use Form PTO/SB/51S attached to this letter. See MPEP §1444 for handling supplemental oath/declarations.

The reissue claims broaden the scope of the patented claims in at least one respect even though they are narrower in other respects. MPEP 1412.03(I). Therefore, the Supplemental Declaration must be signed by all inventors (not the assignee). MPEP 1414.01(III). See also *In re Hayes*, 53 USPQ 2d 1222.

### *Claim Objections*

7. In view of the applicant's modifications to the claims, the Examiner is withdrawing the 37 CFR 1.75(c) objections, which were made against claims 33-35 in the last Office action.

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8. However, the amendment filed on 6/4/07 failed to comply with 37 CFR 1.173.c. Pursuant to 37 CFR 1.173.c., each amendment submitted must set forth the status of all patent claims and all added claims as of the date of the submission. (MPEP 1453 (II)). The amendment submitted 6/4/07 failed to include a complete listing of all of the claims with appropriate status identifiers (in particular, canceled claims). Correction is required.

***Claim Rejections - 35 USC § 103***

9. Upon further reconsideration of applicant's claim cancellations and claim amendments, the Examiner is withdrawing the 35 U.S.C 103(a) rejection of Anderson (US 4,197,842) in view of either Buan et al (US 6,532,958), Snook et al (US 4,932,402), Mondry (US 5,682,877), or Chua et al (US 5,626,131), which was made against claims 11, 13-18, and 30 in the last Office action.

***PTO-892***

10. In compliance with Office practice, a PTO-892 form has been attached to this action listing all references previously considered and cited in parent reissue patent RE 38,533.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on M-F.

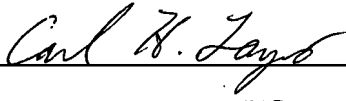
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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CARL LAYNO  
PRIMARY EXAMINER

CHL  
6/17/2007